



U.S. Department
of Transportation
**Federal Transit
Administration**

REGION IX
Arizona, California
Hawaii, Nevada, Guam
American Samoa,
Northern Mariana Islands

201 Mission Street
Suite 1650
San Francisco, CA 94105-1839
415-744-3133
415-744-2726 (fax)

MAR 12 2009

Charlene Dwin Vaughn, AICP
Assistant Director
Office of the Federal Agency Programs
Federal Permitting, Licensing and Assistance Section
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue NW, Suite 803
Washington, DC 2004

Re: Honolulu High-Capacity Transit
Corridor Project

Dear Ms Vaughn:

The Federal Transit Administration (FTA) has reviewed your letter, dated January 27, 2009 regarding the Honolulu High-Capacity Transit Corridor Project and your concerns about the project's effect on historic properties. FTA has not yet circulated a finding of effect for the project, and concurs with your opinion that one Section 106 agreement should be developed at the conclusion of the consultation process.

At the time of issuance of the Draft EIS, FTA had not submitted an Effects Determination Report. The preliminary Effects Determinations included in the Draft EIS were not formally submitted to the SHPD and consequently FTA had not received SHPD concurrence. The Draft EIS provided an opportunity for agencies and the public to review and comment on the preliminary determinations. During the Draft EIS comment period, the SHPD and other consulting parties provided substantive comments that have been considered and are being reflected in the Historic Resources Effects Determination that is currently being prepared and will be summarized into the Final EIS.

The intensive-level Effects Determination work that is currently being conducted and analyzed shows that the Project will adversely affect a number of historic properties not discussed in the preliminary review conducted for the Draft EIS. FTA is preparing a Memorandum of Agreement in coordination with the SHPD and will provide the ACHP with the documentation related to the finding of adverse effect.

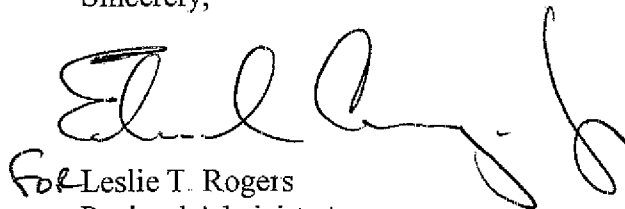
The FTA and SHPD will enter into a single agreement that includes two parts, the first related to specific effects and mitigations to historic properties and the second a programmatic response to address the level of exploration for sub-surface archaeological resources during the final design process and the treatment of any resources found.

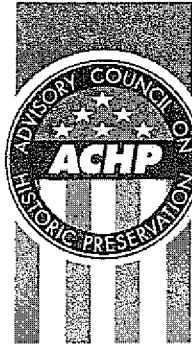
On behalf of FIA, Staff of the City of Honolulu Department of Transportation Service is involved in ongoing coordination with the SHPD and other consulting parties on Section 106 issues. FIA regularly provides direction and coordination to the City staff on issues such as the preparation of the Memorandum of Agreement and coordination with resource and other interested agencies, including the organizations representative of Native Hawaiian interests.

As the consultation process and analysis to determine potential adverse effects on historic properties is ongoing, FIA welcomes the involvement of the Advisory Council. Please be assured that FIA will act to inform the Advisory Council of the results of the analysis of impacts and to ensure that all necessary consultation is undertaken for this project.

Should you have any questions, please contact Ted Matley of my staff at (415) 744-2590.

Sincerely,


For Leslie T. Rogers
Regional Administrator



Preserving America's Heritage

January 27, 2009

Mr. Leslie T. Rogers
Regional Administrator
Federal Transit Administration Region IX
201 Mission St., Suite 1650
San Francisco, CA 94105-1839

*RE Honolulu High-Capacity Transit Corridor Project
Honolulu, Hawaii*

Dear Mr. Rogers:

Consulting parties have recently contacted the Advisory Council on Historic Preservation (ACHP) with concerns about the effects of the referenced undertaking on historic properties, particularly visual effects that may result to the Pearl Harbor National Historic Landmark (NHL). The extent and complexity of the planned undertaking calls for the Federal Transit Administration (FTA) to provide appropriate guidance and oversight to its applicant, the City and County of Honolulu Department of Transportation Services (City) to ensure that consulting parties and other stakeholders are involved in consultation in keeping with the spirit and intent of the Section 106 implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

We would like to confirm our understanding that the FTA has not yet circulated a finding of effect for this undertaking as the City is presently conducting additional study and analysis of effects to historic properties in response to comments received from consulting parties during the recent circulation of a Draft Environmental Impact Statement (DEIS) for the project. Should the FTA conclude, following the results of this additional analysis and consultation with the Hawaii SHPO and other consulting parties, that the undertaking will adversely affect historic properties, or that the development of a Programmatic Agreement is necessary, the agency must notify the ACHP and provide the documentation detailed at 36 CFR § 800.11(e). The Hawaii State Historic Preservation Office (SHPO) has raised concerns about the proposed development of two Section 106 agreement documents should adverse effects result from the proposed undertaking. It is unclear to us how the FTA has proceeded to this point without ongoing consultation with all consulting parties. Further, we wish to clarify that, per the provisions of § 800.6 of our regulations, a Section 106 agreement document should address all the adverse effects that may result from an undertaking. It therefore is inconsistent per 36 CFR Part 800 for the FTA to develop two agreement documents for this single undertaking.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

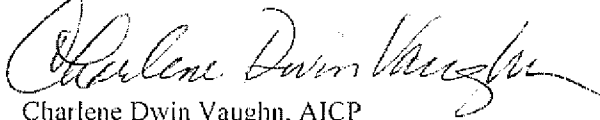
1100 Pennsylvania Avenue NW, Suite 803 • Washington, DC 20004
Phone: 202-606-8503 • Fax: 202-606-8647 • achp@achp.gov • www.achp.gov

AR00138141

We request an update on the status of the Section 106 consultation for the Honolulu High-Capacity Transit Corridor as well as information about how the FTA is providing oversight to the City regarding the coordination of the historic preservation review and consultation with all consulting parties, including Native Hawaiian organizations. This information will help us respond to inquiries from consulting parties and members of the public who express concerns about the FTA's Section 106 coordination. We will also be able to better advise the FTA regarding interpretation of the regulations and procedural requirements.

We look forward to your response and to assisting the FTA with its responsibilities under the National Historic Preservation Act. If you have any questions, please contact Blythe Semmer by telephone at (202) 606-8552 or by e-mail at bsemmer@achp.gov.

Sincerely,

A handwritten signature in cursive script, reading "Charlene Dwin Vaughn".

Charlene Dwin Vaughn, AICP
Assistant Director
Office of Federal Agency Programs
Federal Permitting, Licensing, and Assistance Section